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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,848	11/16/2001	Ben Stafford	1076.40880X00	7574

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EXAMINER

FLYNN, KIMBERLY D

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/987,848

Applicant(s)

STAFFORD, BEN

Examiner

Kimberly D. Flynn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13 and 21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program alone (i.e. not embodied on any physical device) is not statutory subject matter.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-5, 7-10, 11-15, and 18-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Puskala (U.S. Patent No. 6,908,389; hereinafter, Puskala).

Regarding claims 1, 13, 14 Puskala teaches a system for exchanging messages using a commonly accessible message board with means for:

- a. presenting a user with one or more predefined messages (fig. 5a and col. 9, lines 25-30);
- b. receiving an input from the user selecting one of the predefined messages as a message for posting on the message board (col. 9, lines 30-36).

Regarding claims 2 and 20, Puskala teaches means for posting the message on the message board (col. 9, lines 34-36).

Regarding claims 3 and 19, Puskala teaches means wherein the posting of the message on the message board includes sending the message to at least one other user (col. 9, lines 30-36).

Regarding claim 4, Puskala teaches means wherein the sending said message to at least one other user comprises transmitting said data over a communications network (col. 4, lines 35-59).

Regarding claim 5, Puskala teaches means wherein the sending the message to at least one other user comprises transmitting the data over the Internet (fig. 1, 43).

Regarding claim 6, Puskala teaches means wherein the sending the message to at least one other user comprises transmitting the data over a telecommunications network (col. 4, lines 38-45, UMTS Universal Mobile Telephone System).

Regarding claim 7, Puskala teaches means wherein the sending the message to at least one other user comprises transmitting data as a short message service (SMS) message (col. 5, lines 53-57).

Regarding claim 8, Puskala teaches means wherein sending the message to at least one other user comprises transmitting the data over a local area network (col. 4, lines 51-57).

Regarding claim 9, Puskala teaches means wherein the presenting the user with the one or more predefined messages comprises outputting graphical representations of the predefined messages to a display (col. 3, lines 25-29).

Regarding claim 10, Puskala teaches means wherein the outputting the graphical representations comprise displaying selectable icons using a graphical user interface (figure 5C, and col. 10, lines 5-7).

Regarding claim 11, Puskala teaches means wherein each of the selectable icons include text of a respective message to be posted to the message board (col. 9, lines 64-67).

Regarding claim 12, Puskala teaches means wherein selecting the one of the predefined messages includes locating a focus on a one of the selectable icons (col. 10, lines 7-10).

Regarding claims 15, 16, and 17, Puskala teaches wherein the device is a computer, mobile communications device, or a mobile telephone handset (col. 4, lines 27-34).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puskala in view of Robinson (U.S. Patent No. 6,760,580; hereinafter Robinson).

Regarding claims 18, 21, and 22, the combined system of Puskala and Robinson teaches a method of exchanging text messages comprising:

- (a) receiving a message; and responding to the message by: (fig. 5a and col. 9, lines 25-30);
- (b) selecting a predefined message and sending it (col. 9, lines 30-36), and thereafter while Puskala discloses sending a predefined message does not specifically disclose responding to a message by composing a non-predefined message and sending it after sending a

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predefined message. Nonetheless, it is notoriously well known in the art to respond to a message by composing a response message and sending it.

In similar art Robinson discloses an Instant Messaging system in a wireless and non-wireless environment that teaches a means for replying to an instant message by composing the message and sending it (col. 2, lines 7-13). It would have been obvious to a person having ordinary skill in the art to modify the system disclosed by Puskala to include the steps of composing and sending a non-predefined message after sending a predefined message in order to allow the user to create custom messages with user specified content thus allowing the users to communicate more effectively. Therefore that claimed limitations would have been obvious modifications.

Regarding claim 19, the combined system of Puskala and Robinson discloses the sending of the messages comprise sending the message to another user (see Puskala col. 9, lines 30-36).

Regarding claim 20, the combined system of Puskala and Robinson discloses the sending of the messages comprises posting the messages to a commonly accessible message board (see Puskala col. 9, lines 34-36).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Flynn whose telephone number is 571-272-3954.

The examiner can normally be reached on M-F 8:30 - 5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kimberly D Flynn
Examiner
Art Unit 2153

KDF



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